

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**JOSE LUIS TORRES**  
**Plaintiff**

**VS.**

**LOWE'S COMPANIES, INC.,**  
**D/B/A LOWE'S**  
**Defendant**

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**CIVIL ACTION NO. 3:18-cv-366**

**NOTICE OF REMOVAL OF ACTION  
UNDER 28 U.S.C. § 1446(a) DIVERSITY**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE that Defendant, LOWE'S HOME CENTERS, LLC, incorrectly named Lowe's Companies, Inc./Lowe's, HEREBY REMOVES TO THIS Court the state court action described below:

1. On August 10, 2018, an action was commenced in the County Court at Law #3 in and for El Paso County, Texas, entitled JOSE LUIS TORRES. vs. LOWE'S COMPANIES, INC., D/B/A LOWE'S as Cause Number 2018DCV2856. A copy of Plaintiff's Original Petition is attached hereto as Exhibit "A".
2. Defendant Lowe's Home Centers, LLC, was served with suit on November 1, 2018.
3. Defendant, Lowe's Home Centers, LLC, filed an Original Answer on November 16, 2018, which is attached hereto as Exhibit "B".
4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1332 (a) in that it is a civil action between citizens of states other than Texas and citizens or subjects of a foreign state, and the matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs. Plaintiff's claims are based on alleged injuries suffered by Jose Luis Torres who alleged wood planks fell on him at Lowe's, causing Plaintiff to allegedly sustain injuries.

5. Plaintiff has stated that he is a resident of the State of Texas.
6. Defendant, Lowe's Home Centers, LLC is and at all times relevant to this action was, a limited liability company. The sole member of Lowe's Home Centers, LLC is Lowe's Companies, Inc. Lowe's Companies, Inc. is, and at all times relevant to this action was, a corporation incorporated in the State of North Carolina with its principal place of business in North Carolina. Its headquarters are located in North Carolina. North Carolina is where the corporation's high-level officers direct, control, and coordinate Lowe's Companies, Inc.'s operations. For purposes of determining diversity of citizenship, a limited liability company is deemed a citizen of the states where its members are citizens. *See Basurto v. Mervyn's, LLC*, 2007 WL 390711 at \*1 (N.D. Tex.2007).
7. Removal is proper because there is complete diversity between the parties under 28U.S.C. §1332(a). Defendant is a limited liability company and therefore its citizenship is determined by the citizenship of its members. *See, e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). The sole member of Lowe's Home Centers, LLC is Lowe's Home Centers, Inc., a corporation incorporated under the laws of the State of North Carolina, with its principal place of business in North Carolina. 28 U.S.C. § 1332(a, c); *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010) (corporation's principal place of business is the place from which the corporation is controlled). Lowe's Home Centers, Inc. is therefore a citizen of North Carolina and of no other state. Because Defendant Lowe's Home Centers, Inc. takes the citizenship of its sole member, Lowe's Home Centers, LLC is therefore also a citizen of North Carolina and of no other state.
8. Defendant is removing this case well within the 30 day period stipulated by the rules.
9. All pleadings, process, orders, and all other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).
10. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.
11. Defendant will promptly file a copy of this notice of removal with the clerk of the state court in which the action is pending.
12. In accordance with 28 U.S.C. §1441(a), this matter is being removed to U.S. District Court for the Western District of Texas, El Paso Division because this court is the court for the district and division embracing the place where such action is pending, i.e., El Paso County, Texas.

Respectfully submitted,

**PAUL GARCIA & ASSOCIATES**

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**/s/ Krishna Reddy**

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served in accordance with the Federal Rules of Civil Procedure, this 28<sup>th</sup> day of November, 2018, on the following counsel of record, properly addressed as follows:

**Served Via: Message generated by the CM/ECF system**

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**/s/ Krishna Reddy**

Krishna Reddy